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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-171

13 **EILEEN MARY FORD**
14 **1420 San Miguel Drive**
Spring Valley, CA 91977

A C C U S A T I O N

15 **Registered Nurse License No. 506574**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about November 16, 1994, the Board of Registered Nursing issued Registered
24 Nurse License Number 506574 to Eileen Mary Ford (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on December 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

....

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner

1 dangerous or injurious to himself or herself, any other person, or the public or to the
2 extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription, consumption,
4 or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
5 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

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7 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
8 revoke a license on the ground that the licensee has been convicted of a crime substantially
9 related to the qualifications, functions, or duties of the business or profession for which the
10 license was issued.

11 9. Section 493 of the Code states:

12 Notwithstanding any other provision of law, in a proceeding conducted by a
13 board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person who
14 holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
15 licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
16 may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
17 to the qualifications, functions, and duties of the licensee in question.

18 As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

19 REGULATORY PROVISIONS

20 10. California Code of Regulations, title 16, section 1444, states:

21 A conviction or act shall be considered to be substantially related to the
22 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
23 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

24 (a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

25 (b) Failure to comply with any mandatory reporting requirements.

26 (c) Theft, dishonesty, fraud, or deceit.

27 (d) Any conviction or act subject to an order of registration pursuant to Section
28 290 of the Penal Code.

11. California Code of Regulations, Title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(September 22, 2003 Criminal Conviction for DUI on June 2, 2003)

13. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about September 22, 2003, in a criminal proceeding entitled *People of the State of California v. Eileen M. Ford*, in San Diego County Superior Court, case number CN163950, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor.

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b. As a result of the conviction, on or about September 22, 2003, Respondent was sentenced to three years summary probation, completion of a First Conviction Program, standard alcohol conditions, and payment of \$2,000 in fees, fines, and restitution. Respondent's driver's license was restricted to driving only to and from work, school, and court activities for 90 days.

c. The facts that led to the conviction were that on or about the evening of June 2, 2003, a patrol officer with the Oceanside Police Department observed a vehicle, driven by Respondent, pass through a red light signal at an intersection without stopping. (The vehicle also had a broken tail light and expired registration.) The officer activated his emergency lights and Respondent pulled over to the side of the road. The officer noted that upon contact with Respondent she had bloodshot and watery eyes, her speech was slurred, and she had an odor of an alcoholic beverage on her breath. Upon exiting her vehicle, Respondent had a difficult time maintaining her balance. Respondent was unable to successfully complete the standard field sobriety tests as explained and demonstrated by the officer. Based on his observations, the officer arrested Respondent for driving under the influence of alcohol. Respondent provided a blood sample at the police department.

SECOND CAUSE FOR DISCIPLINE

(January 14, 2009 Criminal Conviction for DUI on August 13, 2008)

14. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about January 14, 2009, in a criminal proceeding entitled *People of the State of California v. Eileen M. Ford*, in San Diego County Superior Court, case number C283476, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more, a misdemeanor. It was further alleged that Respondent had a BAC in excess of .15 percent, and that Respondent had a DUI conviction within the prior ten years (as described in paragraph 13, above).

1 b. As a result of the conviction, on or about January 14, 2009, Respondent was
2 sentenced to five years summary probation, 96 hours in jail (with credit for 24 hours), completion
3 of a Multiple Conviction Program, completion of 10 days of public service (with credit for one
4 day), standard alcohol conditions, and payment of \$2,438 in fees, fines, and restitution.

5 c. The facts that led to the conviction were that on or about the evening of August
6 13, 2008, an officer with the California Highway Patrol (CHP) patrolling Interstate 8 in San
7 Diego, observed a small SUV, driven by Respondent, weaving in a serpentine manner from lane
8 to lane. The officer first activated his emergency lights, and then his siren in order to get
9 Respondent's attention. Respondent pulled over and the officer contacted her at the closed
10 passenger window. Respondent appeared to be in a stupor and did not respond when the officer
11 directed her to roll down the window. The officer opened the passenger-side door, explained the
12 reason for the stop, and asked for Respondent's driver's license, registration, and proof of
13 insurance. Respondent fumbled in her vehicle but was unable to produce the requested
14 documents. The officer noted an overwhelming odor of an alcoholic beverage from within the
15 vehicle. Respondent denied having consumed alcohol. The officer directed Respondent to exit
16 her vehicle. Her eyes were red and watery, she was unsteady as she walked, and she stumbled
17 from side to side. The officer noted a strong odor of alcohol on Respondent's breath and she
18 again denied having consumed any alcohol. Respondent was unable to successfully perform any
19 of the field sobriety tests as explained and demonstrated by the officer. Respondent submitted to
20 a preliminary alcohol screening test and gave a very weak sample that tested with a BAC of .169
21 percent. Respondent was arrested and transported to jail where she gave a blood sample.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(January 14, 2009 Criminal Conviction for DUI on September 11, 2008)**

24 15. Respondent has subjected her license to disciplinary action under sections 490 and
25 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
26 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
27 follows:

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1 a. On or about January 14, 2009, in a criminal proceeding entitled *People of the*
2 *State of California v. Eileen M. Ford*, in San Diego County Superior Court, case number
3 CN252206, Respondent was convicted on her plea of guilty of violating Vehicle Code section
4 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more,
5 a misdemeanor; and Vehicle Code section 14601.2, subdivision (a), driving when privileges were
6 suspended for a prior DUI conviction, a misdemeanor.

7 b. As a result of the conviction, on or about January 14, 2009, Respondent was
8 sentenced to five years summary probation, 96 hours in jail, completion of a Multiple Conviction
9 Program, standard alcohol conditions, and payment of \$3,440 in fees, fines, and restitution.
10 Respondent was further ordered to install an interlock device on her vehicle for a period of three
11 years.

12 c. The facts that led to the conviction were that on or about the evening of
13 September 11, 2008, two CHP officers were on patrol in a marked vehicle on SR-78 in San Diego
14 County when they observed an SUV in front of them, driven by Respondent, weaving from lane
15 to lane. The officers initiated an enforcement stop and approached Respondent at the driver's
16 window. They noted an odor of an alcoholic beverage emitting from within the vehicle.
17 Respondent's eyes were red and watery. She denied having consumed any alcohol. Respondent
18 exited her vehicle as directed; she was unsteady on her feet and held onto her vehicle. She had a
19 strong odor of an alcoholic beverage on her breath. Respondent was not able to successfully
20 perform any of the field sobriety tests as explained and demonstrated by the officer. Based on
21 Respondent's objective symptoms of intoxication, she was arrested and transported to jail.
22 Respondent provided two breath samples that tested with a BAC of .15 and .14 percent.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

25 16. Respondent has subjected her license to disciplinary action under sections 2761,
26 subdivision (a) and 2762, subdivision (b) of the Code in that on or about June 2, 2003, August 13,
27 2008, and September 11, 2008, as described in paragraphs 13-15, above, Respondent used
28 alcoholic beverages to an extent or in a manner that was potentially dangerous or injurious to

1 herself and to others in that she operated a motor vehicle while impaired by alcohol. Such
2 unprofessional conduct posed a significant threat to public safety and is substantially related to
3 the qualifications, functions, and duties of a registered nurse.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**


6 Respondent has subjected her license to disciplinary action under sections 2761,
7 subdivision (a) and 2762, subdivision (c) of the Code in that on or about September 22, 2003 and
8 January 14, 2009, as described in paragraphs 13-15, above Respondent was convicted of four
9 separate criminal offenses involving the consumption and/or self-administration of alcohol, which
10 constitutes unprofessional conduct.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Revoking or suspending Registered Nurse License Number 506574, issued to Eileen
15 Mary Ford;
- 16 2. Ordering Eileen Mary Ford to pay the Board of Registered Nursing the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions
18 Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20

21
22 DATED: 9/24/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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